

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

THE ESTATE OF ASHLEY DIPIAZZA,

Plaintiff,

Case No: 3:16-cv-00060-wmc

v.

CITY OF MADISON, and
JUSTIN BAILEY, GARY PIHLAJA,
and CAREY LEEREK, In their Individual Capacities,

Defendants.

**DEFENDANTS' MOTION *IN LIMINE* #9:
TO PRECLUDE EVIDENCE REGARDING "WINNING MINDSET" TRAINING**

Defendants City of Madison, Justin Bailey, Gary Pihlaja, and Carey Leerek, by their attorneys, Boardman & Clark LLP, move the Court *in limine* to bar any reference to, argument or evidence concerning training provided in the Madison Police Pre-Service Academy consisting of a power point presentation known as the "Winning Mindset" training, which plaintiff has referred to in discovery as "sheep/wolf/sheepdog" training.

DISCUSSION

Plaintiff has served two sets of written discovery (plaintiff's 8th and 9th written discovery requests) seeking information related to a power point presentation that MPD has used in various forms from 2002 through 2012 in training recruits. The power point includes slides that draw on an analogy that characterizes most people in society as "sheep," with some "wolves" who feed on the sheep, where the "sheepdogs" (police officers) are there to protect the flock. (See, generally, Heenan v. City of Madison, 111 F. Supp. 3d 929, 952 (W.D. Wis. 2015)). Plaintiff

has asserted no Monell claim against the City of Madison. Reference to this training has nothing to do with any of the issues that will be before the jury. The court should exclude this evidence under Fed. R. Evid. 401 and 402 as irrelevant and under Fed. R. Evid. 403 due to the risk of "unfair prejudice, confusion of the issues, [and] misleading the jury." .

DATED: April 14, 2017. BOARDMAN & CLARK LLP

By

/s/ Amanda J. Kaiser

Amanda J. Kaiser, #1006584

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CERTIFICATE OF SERVICE

I hereby certify that on April 14, 2017, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification electronically to all parties of record.

/s/ Amanda J. Kaiser

Amanda J. Kaiser